

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL LEE MYERS,

Plaintiff,

v.

DR. GADDIS, et al.

Defendants.

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Civ. A. No. 05-319E

Judge McLaughlin  
Magistrate Judge Susan Paradise Baxter

**REPORT AND RECOMMENDATION**

**I. RECOMMENDATION**

It is respectfully recommended that the Plaintiff's Motion to Proceed In Forma Pauperis (Document # 1) be denied and the case dismissed without prejudice.

**II. REPORT**

When submitting a Motion to Proceed In Forma Pauperis, the Plaintiff is required to submit "an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor." 28 U.S.C. § 1915(a)(1). In addition to the aforementioned affidavit, Plaintiff is further required to "submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2).

In this case, Plaintiff has failed to submit a copy of his institutional account statement, certified or otherwise. Because Plaintiff has failed to comply with the statutory prerequisites for proceeding In Forma Pauperis, Plaintiff's Motion to Proceed In Forma Pauperis should be denied and the case dismissed without prejudice.

**III. CONCLUSION**

For the reasons set forth above, it is recommended that the Plaintiff's Motion to Proceed In Forma Pauperis (Document #1) be denied and the case dismissed without prejudice.

In accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, the parties are allowed ten (10) days from the date of service to file objections to this report and recommendation. Any party opposing the objections shall have seven (7) days from the date of service of objections to respond thereto. Failure to file timely objections may constitute a waiver of any appellate rights.

S/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
CHIEF U.S. MAGISTRATE JUDGE

Dated: October 26, 2005